

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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ROBERT W. JOHNSON,

Plaintiff,

v.

AMENDED  
ORDER  
05-CV-658

OFFICER JOSEPH LEDWIN, et al.,

Defendants.

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This case was referred to Magistrate Judge Leslie G. Foschio, pursuant to 28 U.S.C. § 636(b)(1), on August 25, 2006. On February 25, 2008, plaintiff filed a motion for summary judgment. On September 2, 2008, Magistrate Judge Foschio filed a Report and Recommendation, recommending that plaintiff's motion for summary judgment be dismissed with prejudice.

Plaintiff filed objections to the Report and Recommendation on September 11, 2008.

Pursuant to 28 U.S.C. § 636(b)(1), this Court must make a de novo determination of those portions of the Report and Recommendation to which objections have been made. Upon a de novo review of the Report and Recommendation, and after reviewing the submissions, the Court adopts the proposed findings of the Report and Recommendation.

Accordingly, for the reasons set forth in Magistrate Judge Foschio's Report and Recommendation, plaintiff's motion for summary judgment is dismissed without prejudice.

Case is referred back to Magistrate Judge Foschio for further proceedings.

SO ORDERED.

s/ Richard J. Arcara

HONORABLE RICHARD J. ARCARA  
CHIEF JUDGE  
UNITED STATES DISTRICT COURT

DATED: September 15 , 2008